

12

CIRCULAR No. 72.

REVISED REGULATIONS UNDER THE KINKAID ACTS.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., January 19, 1912.

Registers and Receivers, United States Land Offices.

SIRS: Section 7 of the act of Congress approved May 29, 1908 (35 Stat., 465), amended section 2 of the act of April 28, 1904 (33 Stat., 547), commonly known as the Kinkaid Act, to read as follows:

SEC. 2. That entrymen under the homestead laws of the United States within the territory above described who own and occupy the lands heretofore entered by them may, under the provisions of this act and subject to its conditions, enter other lands contiguous to their said homestead entry, which shall not, with the land so already entered, owned, and occupied, exceed in the aggregate six hundred and forty acres; and residence continued and improvements made upon the original homestead, subsequent to the making of the additional entry, shall be accepted as equivalent to actual residence and improvements made upon the additional land so entered, but final entry shall not be allowed of such additional land until five years after first entering the same, except in favor of entrymen entitled to credit for military service.

This amendment did not affect sections 1 and 3 of the Kinkaid Act, which read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after sixty days after the approval of this act entries made under the homestead laws in the State of Nebraska west and north of the following line, to wit: Beginning at a point on the boundary line between the States of South Dakota and Nebraska where the first guide meridian west of the sixth principal meridian strikes said boundary; thence running south along said guide meridian to its intersection with the fourth standard parallel north of the base line between the States of Nebraska and Kansas; thence west along said fourth standard parallel to its intersection with the second guide meridian west of the sixth principal meridian; thence south along said guide meridian to its intersection with the third standard parallel north of the said base line; thence west along said third standard parallel to its intersection with the range line between ranges twenty-five and twenty-six west of the sixth principal meridian; thence south along said line to its intersection with the second standard parallel north of the said base line; thence west on said standard parallel to its intersection with the range line between ranges thirty and thirty-one west; thence south along said line to its intersection with the boundary line between the States of Nebraska and Kansas, shall not exceed in area six hundred and forty acres, and shall be as nearly compact in form as possible, and in no event over two miles in extreme length: Provided, That there shall be excluded from the provisions of this act such lands within the territory herein described as in the opinion of the Secretary of the Interior it may be reasonably practicable to irrigate under the national irrigation law, or by private enterprise; and that said Secretary shall, prior to the date above mentioned, designate and exclude from entry under this act the lands, particularly along the North Platte River,

which in his opinion it may be possible to irrigate as aforesaid; and shall thereafter, from time to time, open to entry under this act any of the lands so excluded, which, upon further investigation, he may conclude can not be practically irrigated in the manner aforesaid.

SEC. 3. That the fees and commissions on all entries under this act shall be uniformly the same as those charged under the present law for a maximum entry at the minimum price. That the commutation provisions of the homestead law shall not apply to entries under this act, and at the time of making final proof the entryman must prove affirmatively that he has placed upon the lands entered permanent improvements of the value of not less than \$1.25 per acre for each acre included in his entry: *Provided*, That a former homestead entry shall not be a bar to the entry under the provisions of this act of a tract which, together with the former entry, shall not exceed 640 acres: *Provided*, That any former homestead entryman who shall be entitled to an additional entry under section 2 of this act shall have for ninety days after the passage of this act the preferential right to make additional entry as provided in said section.

All general instructions heretofore issued under this act, and the instructions issued under the supplemental act of March 2, 1907 (34 Stat., 1224), (32 L. D., 670; 34 L. D., 87, and 546; 37 L. D., 225), are hereby modified and reissued as follows:

1. It is directed by the law that in that portion of the State of Nebraska lying west and north of the line described therein, which was marked in red ink upon maps transmitted with said circular, upon and after June 28, 1904, except for such lands as might be thereafter and prior to said date excluded under the proviso contained in the first section thereof, homestead entries may be made for and not to exceed 640 acres, the same to be in as nearly a compact form as possible, and must not in any event exceed 2 miles in extreme length.

2. Under the provisions of the second section, a person who within the described territory has made entry prior to May 29, 1908, under the homestead laws of the United States, and who now owns and occupies the lands theretofore entered by him, and is not otherwise disqualified, may make an additional entry of a quantity of land contiguous to his said homestead entry, which, added to the area of the original entry, shall make an aggregate area not to exceed 640 acres; and he will not be required to reside upon the additional land so entered, but residence continued, and improvements made upon the original homestead entry subsequent to the making of the additional entry will be accepted as equivalent to actual residence and improvements on the land covered by the additional entry. But residence either upon the original homestead or the additional land entered must be continued for the period of five years from the date of the additional entry, except that entrymen may claim and receive credit on that period for the length of their military service, not exceeding four years.

3. A person who has a homestead entry upon which final proof has not been submitted and who makes additional entry under the provisions of section 2 of the act, will be required to submit his final proof on the original entry within the statutory period therefor, and final proof upon the additional entry must also be submitted within the statutory period from date of that entry.

4. Such additional entry must be for contiguous lands and the tracts embraced therein must be in as compact a form as possible, and the extreme length of the combined entries must not in any event exceed 2 miles.

5. In accepting entries under this act compliance with the requirement thereof as to compactness of form should be determined by the relative location of the vacant and unappropriated lands, rather than by the quality and desirability of the desired tracts.

6. By the first proviso of section 3 any person who made a homestead entry either within the territory above described or elsewhere prior to his application for entry under this act, if no other disqualification exists, will be allowed to make an additional entry for a quantity of land which, added to the area of the land embraced in the former entry, shall not exceed 640 acres, but residence upon and cultivation of the additional land will be required to be made and proved as in ordinary homestead entries. But the application of one who has an existing entry and seeks to make an additional entry under said proviso, can not be allowed unless he has either abandoned his former entry or has so perfected his right thereto as to be under no further obligation to reside thereon; and his qualifying status in these and other respects should be clearly set forth in his application.

7. Under said act no bar is interposed to the making of second homesteads for the full area of 640 acres by parties entitled thereto under existing laws, and applications therefor will be considered under the instructions of the respective laws under which they are made.

8. Upon final proof, which may be made after five years and within seven years from date of entry, the entryman must prove affirmatively that he has placed upon the lands entered permanent improvements of the value of not less than \$1.25 per acre for each acre, and such proof must also show residence upon and cultivation of the land for the five-year period as in ordinary homestead entries, but credit for military service may be claimed and given under the supplemental act mentioned above.

9. In the making of final proofs the homestead-proof form will be used, modified when necessary in case of additional entries made under the provisions of section 2.

10. It is provided by section 3 that the fees and commissions on all entries under the act shall be uniformly the same as those charged under the present law for a maximum entry at the minimum price, viz: At the time the application is made \$14, and at the time of making final proof \$4, to be payable without regard to the area embraced in the entry.

11. In case that the combined area of the subdivisions selected should, upon applying the rule of approximation thereto, be found to exceed in area the aggregate of 640 acres, the entryman will be required to pay the minimum price per acre for the excess in area.

12. Entries under this act are not subject to the commutation provisions of the homestead law.

13. In the second proviso of section 3 entrymen who had made their entries prior to April 28, 1904, were allowed a preferential right for 90 days thereafter to make the additional entry allowed by section 2 of the law.

14. The supplemental act, approved March 2, 1907 (34 Stat., 1224), reads as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all qualified entrymen who, during the period beginning on the twenty-eighth day of April, nineteen hundred and four, and ending on the twenty-eighth day of June, nineteen hundred

and four, made homestead entry in the State of Nebraska within the area affected by an act entitled "An act to amend the homestead laws as to certain unappropriated and unreserved public lands in Nebraska," approved April twenty-eighth, nineteen hundred and four, shall be entitled to all the benefits of said act as if their entries had been made prior or subsequent to the above-mentioned dates, subject to all existing rights.

SEC. 2. That the benefits of military service in the Army or Navy of the United States granted under the homestead laws shall apply to entries made under the aforesaid act, approved April twenty-eighth, nineteen hundred and four, and all homestead entries hereafter made within the territory described in the aforesaid act shall be subject to all the provisions thereof.

SEC. 3. That within the territory described in said act approved April twenty-eighth, nineteen hundred and four, it shall be lawful for the Secretary of the Interior to order into market and sell under the provisions of the laws providing for the sale of isolated or disconnected tracts or parcels of land any isolated or disconnected tract not exceeding three quarter sections in area: *Provided*, That not more than three quarter sections shall be sold to any one person.

ISOLATED OR DISCONNECTED TRACTS.

15. The sale of isolated tracts within the area affected by the terms of this act is to be governed by the provisions of the act of June 27, 1906 (34 Stat., 517), as amended by section 3 of said act of March 2, 1907, and all sales shall be made in the manner and form herein-after provided.

16. Applications to have isolated tracts ordered into market must be filed with the register and receiver of the local land office in the district wherein the lands are situated.

17. Applicants must show by their affidavits, corroborated by at least two witnesses, that the land contains no salines, coal, or other minerals; the amount, kind, and value of timber or stone thereon, if any; whether the land is occupied, and if so the nature of the occupancy; for what purpose the land is chiefly valuable; why it is desired that same be sold; that applicant desires to purchase the land for his own individual use and actual occupation and not for speculative purposes, and that he has not heretofore purchased, under section 2455, Revised Statutes, or the amendments thereto, isolated tracts the area of which, when added to the area now applied for, will exceed approximately 480 acres, and that he is a citizen of the United States or has declared his intention to become such. If applicant has heretofore purchased lands under the provisions of the acts relating to isolated tracts, same must be described in the application by subdivision, section, township, and range.

18. The affidavits of applicants to have isolated tracts ordered into market, and of their corroborating witnesses, may be executed before any officer having a seal and authorized to administer oaths in the county or land district in which the tracts described in the application are situated.

19. The officer before whom such affidavits are executed will cause each applicant and his witnesses to fully answer the questions contained upon the accompanying form and, after the answers to the questions therein contained have been reduced to writing, to sign and swear to same before him.

20. No sale will be authorized upon the application of a person who has purchased under section 2455, Revised Statutes, or the amendments thereto, any lands the area of which, when added to the area applied for, shall exceed approximately 480 acres.

21. Only one tract may be included in an application for sale, and no tract exceeding approximately 480 acres in area will be ordered into the market.

22. No tract of land will be deemed isolated and ordered into the market unless, at the time application is filed, the said tract has been subject to homestead entry for at least two years after the surrounding lands have been entered, filed upon, or sold by the Government, except in cases where some extraordinary reason is advanced sufficient, in the opinion of the Commissioner of the General Land Office, to warrant waiving this restriction.

23. The local officers will on receipt of applications note same upon the tract books of their office, and if the applications are not properly executed, or not corroborated, they will reject the same, subject to the right of appeal. Applications found to be properly executed and corroborated will be disposed of as follows:

(1) If all, or any portion, of the land applied for is not subject to disposition under the provisions of paragraph 22, or by reason of some prior appropriation of the land, the application will be forwarded to the General Land Office with the monthly returns, accompanied by a report as to the status of the land applied for and the surrounding lands, and any other objection to the offering known to the local officers. Upon determining what portion, if any, of the lands applied for should be ordered into the market, the Commissioner of the General Land Office will call upon the local officers and the Chief of Field Division for the report, as next provided for, concerning the value of the land.

(2) If all the land applied for is vacant, and not withdrawn or otherwise reserved from such disposition, and the status of the surrounding lands is such that a sale might properly be ordered under paragraph 22, the local officers, after noting the application on their records, will promptly forward the same to the Chief of Field Division for report as to the value of the land and any objection he may wish to interpose to the sale, and the register will make proper notations on his schedule of serial numbers in the event the application is not returned in time to be forwarded with the returns for the month in which it is filed. Upon receipt of the application from the Chief of Field Division, with his report thereon, the local officers will attach their report as to the status of the land and that surrounding, the value of the land applied for if they have any knowledge concerning the same, and any objection to the sale known to them, and forward the papers to the General Land Office with the returns for the current month.

24. An application for sale under these instructions will not segregate the land from entry or other disposal, for such lands may be entered at any time prior to the receipt in the local land office of the letter authorizing the sale and its notation of record. Should all of the land applied for be entered or filed upon while the application for sale is in the hands of the Chief of Field Division, the local officers will so advise him and request the return of the application for forwarding to the General Land Office. Likewise, should any or all of the land be entered or filed upon while the application for sale is pending before the General Land Office, the local officers will so report by special letter.

25. Upon receipt of letter authorizing the sale, the local officers will note thereon the time when it was received and at once examine the records to see whether the tract, or any part thereof, has been entered. They will note on the tract book, opposite such portion of the tract as is found to be clear, that sale has been authorized, giving the date of the letter. Thereupon the land will be considered segregated for the purpose of sale.

If the examination of the records shows that all of the tract has been entered or filed upon, the local officers will not promulgate the letter authorizing the sale, but will report the facts to the General Land Office, whereupon the letter authorizing the sale will be revoked. If a part of the land has been entered they will so report and proceed as provided below as to the remainder.

The local officers will prepare a notice for publication on the form hereinafter given, describing the land found to be unentered and fixing a date for the sale, which date must be far enough in advance to afford ample time for publication of the notice and for the affidavit of the publisher to be filed in the local land office prior to the date of the sale. The register will also designate a newspaper as published nearest to the land described in the notice. The notice will be sent to the applicant with instructions that he must publish the same at his expense in the newspaper designated by the register. Payment for publication must be made by applicant directly to the publisher, and in case the money for publication is transmitted to the receiver he must issue receipt therefor and immediately return the money to the applicant by his official check, with instructions to arrange for the publication of the notice as hereinbefore provided.

If, on the day set for the sale, the affidavit of the publisher, showing proper publication, has not been filed in the local land office, the register and receiver will report that fact to this office and will not proceed with the sale.

26. Notice must be published once a week for 5 consecutive weeks (or 30 consecutive days, if in a daily paper) immediately prior to date of sale, but a sufficient time should elapse between the date of last publication and date of sale to enable the affidavit of the publisher to be filed in the local land office. The notice must be published in the paper designated by the register as nearest the land described in the application. The register and receiver will cause a similar notice to be posted in the local land office, such notice to remain posted during the entire period of publication. The publisher of the newspaper must file in the local land office, prior to the date fixed for sale, evidence that publication has been had for the required period, which evidence may consist of the affidavit of the publisher, accompanied by copy of the notice published.

27. At the time and place fixed for the sale the register or receiver will read the notice of sale, and allow all qualified persons an opportunity to bid. Bids may be made through an agent personally present at the sale as well as by the bidder in person. The register or receiver conducting the sale will keep a record showing the names of the bidders and the amount bid by each. Such record will be transmitted to this office with the other papers in the case.

The sale will be kept open for one hour after the time mentioned in the published notice. At the expiration of the hour, and after all bids have been offered, the local officers will declare the sale closed

and announce the name of the highest bidder, who will be declared the purchaser, and he must immediately deposit the amount bid by him with the receiver, and within 10 days thereafter furnish evidence of citizenship, or of declaration of intention to become a citizen, nonmineral and nonsaline affidavit, Form 4-062, and purchaser's affidavit, Form 4-093. Upon receipt of the proof, and payment having been made for the lands, the local officers will issue the proper final papers.

28. No lands will be sold at less than the price fixed by law, nor at less than \$1.25 per acre. Should any of the lands offered be not sold, the same will not be regarded as subject to private cash entry (act of Mar. 2, 1889, 25 Stat., 854), but may again be offered for sale in the manner herein provided.

29. After each offering where the lands offered are not sold, the local officers will report by letter to the General Land Office. No report by letter will be made when the offering results in a sale, but the local officers will issue cash papers as in ordinary cash entries, noting thereon the date of the letter authorizing the offering, and report the same in their current monthly returns. With the papers must also be forwarded the affidavit of publisher showing due publication, and the register's certificate of posting.

Very respectfully,

FRED DENNETT, *Commissioner.*

Approved January 19, 1912:

SAMUEL ADAMS,
First Assistant Secretary

[Form 4-008C.]

APPLICATION FOR SALE OF ISOLATED OR DISCONNECTED TRACTS.

DEPARTMENT OF THE INTERIOR,
UNITED STATES LAND OFFICE,

-----, 19-----

To the Commissioner of the General Land Office:
of-----

-----, requests that the-----
of section-----, township-----, range-----, be ordered into market and
sold under the acts of June 27, 1906 (34 Stat., 517), and March 2, 1907 (34
Stat., 1224), at public auction, the same having been subject to homestead entry
for at least two years after the surrounding lands were entered, filed upon, or
sold by the Government. Applicant states that he-----

(Insert statement that affiant is a
native-born or naturalized citizen, or has declared intention to become such, as the case
may be.)

citizen of the United States; that this land contains no salines, coal, or other
minerals, and no stone except-----

-----; that there is no
(State amount and character.)
timber thereon except-----trees of the-----species, ranging
from-----inches to-----feet in diameter, and aggregating about-----
feet stumpage measure, of the estimated value of \$-----; that the land is
not occupied except by-----of-----
post office, who occupies and uses it for the purpose of-----
but does not claim the right of occupancy under any of the public land laws;
that the land is chiefly valuable for-----
and that applicant desires to purchase same for his own individual use and
actual occupation for the purpose of-----and not
for speculative purposes; that he has not heretofore purchased public lands
sold as isolated tracts, the area of which when added to the area herein applied
for will exceed approximately 480 acres. The lands heretofore purchased by
him under said act are described as follows:-----

If this request is granted, applicant agrees to have notice published at his
expense in the newspaper designated by the register.

(Applicant will answer fully the following questions:)

Question 1. Are you the owner of land adjoining the tract above described?
If so, describe the land by section, township, and range.

Answer-----

Question 2. To what use do you intend to put the isolated tract above de-
scribed, should you purchase same?

Answer-----

Question 3. If you are not the owner of adjoining land, do you intend to
reside upon or cultivate the isolated tract?

Answer-----

Question 4. Have you been requested by anyone to apply for the ordering of
the tract into market? If so, by whom?

Answer-----

Question 5. Are you acting as agent for any person or persons or directly or
indirectly for or in behalf of any person other than yourself in making said
application?

Answer-----

Question 6. Do you intend to appear at the sale of said tract if ordered, and bid for same?

Answer -----

Question 7. Have you any agreement or understanding, expressed or implied, with any other person or persons that you are to bid upon or purchase the lands for them or in their behalf, or have you agreed to absent yourself from the sale or refrain from bidding so that they may acquire title to the land?

Answer -----

(Sign here with full Christian name.)

We are personally acquainted with the above-named applicant and the land described by him, and the statements hereinbefore made are true to the best of our knowledge and belief.

(Sign here with full Christian name.)

(Sign here with full Christian name.)

I certify that the foregoing application and corroborative statement were read to or by the above-named applicant and witnesses, in my presence, before affiants affixed their signatures thereto; that affiants are to me personally known (or have been satisfactorily identified before me by-----, -----); that I verily believe affiants to be credible persons, and the (P. O. address.) identical persons hereinbefore described; that said affidavits were duly subscribed and sworn to before me, at my office, at-----, this----- day of-----, 19---.

(Official designation of officer.)

[Form 4—093.]

ISOLATED OR DISCONNECTED TRACTS.

DEPARTMENT OF THE INTERIOR,
UNITED STATES LAND OFFICE,

-----, 19-----

I, ----- (-----), (Male or female.)

being first duly sworn, upon oath state that my post-office address is -----; that I am the purchaser of -----, section -----, township -----, range -----, meridian, containing ----- acres, in Nebraska, under the act of June 27, 1906 (34 Stat., 517), as amended by section 3 of the act of March 2, 1907 (34 Stat., 1224); that I----- (Insert statement that affiant is a native-born or naturalized citizen, or has declared intention to become such, as the case may be. Record evidence of naturalization or declaration of intention must be furnished.)

of the United States; that said purchase is made for my own use and benefit, and not, directly or indirectly, for the use and benefit of any other person; that I have not heretofore purchased under the provisions of said act, either directly or indirectly, any lands, except-----

(Give description of lands heretofore purchased under this act, if any.)

(Sign here, with full Christian name.)

NOTE.—Every person swearing falsely to the above affidavit will be punished as provided by law for such offense. (See sec. 125, U. S. Criminal Code, below.)

I hereby certify that the foregoing affidavit was read to or by affiant in my presence before affiant affixed signature thereto; that affiant is to me personally known (or has been satisfactorily identified before me by-----),

(Give full name and post-office address.)

and that said affidavit was duly subscribed and sworn to before me, at my office, in _____
 within the _____ land district, this _____ day of
 _____, 19____.

(Official designation of officer.)

SEC. 125, U. S. Criminal Code. Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, shall willfully and contrary to such oath state or subscribe any material matter which he does not believe to be true, is guilty of perjury, and shall be fined not more than two thousand dollars and imprisoned not more than five years.

[Forms 4-348g and 4-348h.]

NOTICE OF PUBLICATION—ISOLATED TRACT.

PUBLIC LAND SALE.

DEPARTMENT OF THE INTERIOR,
 UNITED STATES LAND OFFICE,

Notice is hereby given that, as directed by the Commissioner of the General Land Office, under the provisions of the acts of Congress approved June 27, 1906 (34 Stat., 517), and March 2, 1907 (34 Stat., 1224), pursuant to the application of _____, Serial No. _____, we will offer at public sale to the highest bidder, but at not less than \$_____ per acre, at _____ o'clock _____ m., on the _____ day of _____ next, at this office, the following tract of land :

Any persons claiming adversely the above-described land are advised to file their claims or objections on or before the time designated for sale.

Register.

Receiver.

